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**Filed** : **November 14, 2003**

## **Remarks**

Reconsideration and allowance of the above referenced application are respectfully requested.

The changes made herein to the claims correct an obvious typo in claim 18, and obviate the informalities in claim 50. Accordingly, it is respectfully suggested that these changes should be entered after final to place the case in better condition for appeal.

Claim 50 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter. Claim 50 also stands objected to because of informalities. These rejections have been obviated by amendment.

Claims 18, 29, 30, and 60-62 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schuessler (US 2001/0045461) in view of Tracy et al. (US 6,550,672).

This contention is respectfully traversed.

Claim 18 requires a portable communication device which obtains an image of a dual type barcode. Claim 18 also receives and displays information that

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indicates information "beyond that which was present in at least one part of the bar code". Claim 18 defines using the portable communication device to make a phone call, and also defines that the obtaining an image comprises "obtaining a whole image of the dual type bar code and later processing the image to obtain information using a processor to obtain the information from said first part and said second part".

With respect, this combination is not shown by Schuessler in view of Tracy.

Schuessler shows what he calls a composite barcode, formed of a combination of a 1D and a 2D barcode. The specific barcode shown in Schuessler is a combination of the type 39 barcode with a micro PDF 417 barcode. See paragraph 14 of Schuessler.

Schuessler teaches decoding that barcode beginning at paragraph 30.

Schuessler has no disclosure that the decoding receives and displays information from a remote server, since Schuessler is only decoding the barcode.

Moreover, Schuessler specifically discusses how the composite barcode is decoded. Schuessler describes that either the type 39 barcode is decoded first, or the micro 417 barcode is decoded first. That is, Schuessler specifically teaches that one or the other of the barcodes is decoded first -- before the other of the barcodes is decoded.

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Schuessler does not teach, as claimed, that the operation is “obtaining a whole image of the dual type bar code and later processing the image to obtain information using a processor to obtain the information from said first part and said second part”, as claimed. Rather than obtaining the whole image and later processing that image, Schuessler teaches decoding one barcode first and only then decoding the other barcode.

Therefore, Schuessler does not teach this subject matter of claim 18. Moreover, in fact, Schuessler teaches away from the claimed limitation of "wherein said using to obtain an image comprises obtaining a whole image of the dual type bar code and later processing the image to obtain information using a processor to obtain the information from said first part and said second part". This claimed limitation requires obtaining the whole image, and then decoding it. Schuessler teaches away from this, by teaching that one part should be decoded first. Schuessler teaches that one part should be decoded before the other, rather than the teaching that a whole image of the dual barcode is obtained before processing the image.

The secondary reference to Tracy describes that a radio can be used with a portable bar code reader that can decode encoded indicia from an article. The data that is collected with the portable terminal is communicated to a central host, see

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Tracy column 3 lines 49-50. The central host is described as retrieving and processing information and retransmitting it to the portable terminals see column 6 lines 5-7. This is done to provide for example a portable checkout system.

While Tracy does teach that either 1D barcodes or 2D barcodes can be scanned, it does not disclose or suggest the subject matter of claim 18 described above -- "said using to obtain an image comprises obtaining a whole image of the dual type bar code and later processing the image to obtain information using a processor to obtain the information from said first part and said second part." In fact, nothing in Tracy describes obtaining a whole image of the dual type barcode as claimed and later processing it.

Therefore, the hypothetical combination of Schuessler in view of Tracy, assuming this combination could be made, would teach a Schuessler style barcode with Tracy's teaching of a handheld device. This hypothetical combination of Schuessler in view of Tracy, even if made, would have nothing about "said using to obtain an image comprises obtaining a whole image of the dual type bar code and later processing the image to obtain information using a processor to obtain the information from said first part and said second part." Schuessler in view of Tracy would use Schuessler's teaching of decoding one barcode first and only then decoding the other barcode.

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Moreover, Schuessler teaches decoding one barcode and then the other, and to this extent teaches away from the claimed subject matter of obtaining the whole image and later processing the image, as claimed. Since Schuessler teaches away from this, Schuessler in view of Tracy must also teach away from this.

Accordingly, this prior art as a whole teaches away from the subject matter of claim 18, and claim 18 should hence be allowable thereover.

The claims which depend from claim 18 should be allowable for these reasons as well as on their own merits.

Claim 60 defines using a portable communication device to obtain an image of a barcode. This requires

"obtaining a whole image of the two different bar code parts of the bar code;

later processing the image to obtain information using a processor to obtain the information from said first part and said second part...".

As described above, this is nowhere taught or suggested by Schuessler in view of Tracy, even assuming that these references could be combined. Moreover, since Schuessler teaches away from obtaining the whole image and then decoding the whole image in the way claimed, it can fairly be said that Schuessler in view of Tracy teaches away from the claimed subject matter. Therefore, claim 60 should

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be allowable along with the claims that depend there from.

Claims 19 and 59 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schuessler/Tracy et al. in view of Ogasawara (US 2002/0065728).

These claims should be allowable by virtue of their dependency.

Claims 31 and 63 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schuessler/Tracy et al. in view of Kaufman et al. (US 6,070,805).

These claims should be allowable by virtue of their dependency.

Claim 49 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schuessler/Tracy et al. in view of Swartz et al. (US 6,655,597).

This claim should be allowable by virtue of its dependency.

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Claim 50 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schuessler/Tracy et al./Ogasawara in view of Swartz et al. (US 6,655,597).

This claim should be allowable by virtue of its dependency.

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

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For all of these reasons, it is respectfully suggested that all of the claims should be in condition for allowance. A formal notice of allowance is hence respectfully requested.

If the Examiner believes that communications such as a telephone interview or email would facilitate disposal of this case, the undersigned respectfully encourages the Examiner to contact the undersigned. Recognizing that Internet communications are not secure, I hereby authorize the USPTO to communicate with me concerning any subject matter of this application by electronic mail (using the email address harris@schiplaw.com). I understand that a copy of these communications will be made of record in the application file.

Please charge any fees due in connection with this response, (other than those concurrently paid via EFS), to Deposit Account No. 50-1387.

Respectfully submitted,

Date: 5/17/2010

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